

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re:)
) Chapter 7
)
) Case No. 18-22932-RDD
EMC HOTELS AND RESORTS LLC,)
) ORDER TO SHOW CAUSE
) FOR THE APPOINTMENT OF
) AN INTERIM TRUSTEE
Debtor.)
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Upon the affidavits of Howard Dean, Kerry Wellington, Don Wellington and John Burrell, sworn to the 29th day of June, 2018, and the affirmation of Joseph E. Sarachek, upon the copy of the *Motion For The Appointment Of An Interim Trustee* hereto annexed, it is

ORDERED, that the above named defendant show cause before the United States Bankruptcy Court for the Southern District of New York at Room _____, United States Bankruptcy Court, 300 Quarropas Street, White Plains, New York, on _____, 2018 at _____ o'clock in the _____ thereof, or as soon thereafter as counsel may be heard, why an order should not be issued pursuant to 11 U.S.C. § 303(g) and Rule 701 of the Federal Rules of Bankruptcy Procedure appointing an interim Chapter 7 trustee in the above proceeding; and it is further

ORDERED that, sufficient reason having been shown therefor, pending hearing of petitioner's application for appointment of an interim trustee pursuant to 11 U.S.C. § 303(g) and Rule 701 of the Federal Rules of Bankruptcy Procedure, the Debtor and any individuals that own or work for the Debtor, are restrained from using accounts or assets of the Debtor for any purpose other than for the ordinary operation of the Time Hotel; and it is further

ORDERED, that personal service of a copy of this order and annexed affidavit upon the defendant or his counsel on or before _____ o'clock in the _____ on _____, 2018, shall be deemed good and sufficient service thereof.

Dated: _____, 2018
White Plains, New York

The Honorable Robert D. Drain
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In Re: :

: Chapter 7

EMC HOTELS AND RESORTS LLC, :

Case No. 18-22932-RDD

: **AFFIRMATION OF**
: **JOSEPH E. SARACHEK**
:

Debtor.
-----X

1. I am an attorney admitted and in good standing in New York and represent the
Petitioners and movants in this case.
2. The main reasons it is necessary to appoint an interim Trustee is because Edgar Melo
Costa, an individual who is asserting control of the Debtor has recently transferred funds
from the Debtor's accounts to his personal accounts while the Debtor is not meeting its
obligations to creditors. I have been informed that on several occasions recently, the
Debtor has missed its scheduled payroll. There are also numerous instances where it
appears Costa has committed fraud.
3. The Time Hotel is operating without proper licenses, including a Certificate of
Occupancy for the Hotel, restaurant and pool and may present a danger to the public.
4. Other salient facts supporting appointment of a Trustee are set forth in the affidavits of
Howard Dean, Kerry Wellington, Don Wellington, and John Burrell, all attached to the
movants' papers.

Dated: June 29, 2018
New York, NY. 10178


Joseph E. Sarachek